

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
THE TOLEDO EDISON COMPANY and)	
THE CLEVELAND ELECTRIC ILLUMINATING)	
COMPANY)	
(Davis Besse Nuclear Power Station,)	Docket Nos. 50-346A
Unit 1))	50-440A
)	50-441A
THE CLEVELAND ELECTRIC ILLUMINATING)	
COMPANY, ET AL.,)	
(Perry Nuclear Power Plant,)	
Units 1 and 2))	

APPLICANTS' MOTION FOR LEAVE TO FILE
RESPONSE TO THE BRIEFS OF THE
CITY OF CLEVELAND AND THE DEPARTMENT
OF JUSTICE ON CLAIMS OF PRIVILEGE

1. On May 2, 1975, both the City of Cleveland and the Department of Justice filed Reply Briefs with the Special Master, Frederic J. Coufal, in which they opposed the claims of privilege asserted by Applicants Duquesne Light Company ("Duquesne") and The Cleveland Electric Illuminating Company ("CEI"). The principal thrust of this opposition was that these Applicants had failed in certain respects to satisfy their burden of proof in connection with various documents claimed as privileged.

2. Applicants would point out that the answers to interrogatories submitted by Duquesne and CEI were given under affirmation as being true and correct statements.

In order to eliminate any possible confusion, however, with regard to the procedural matter as to the evidentiary weight to be accorded the interrogatory answers, Duquesne and CEI are prepared to address in affidavits the specific areas mentioned in the opposing Reply Briefs where it is said that Applicants have failed to meet their burden of proof.

3. Applicants therefore request leave to file on or before May 23, 1975, a response to the referenced Reply Briefs, which will include affidavits by those individuals at Duquesne and CEI responsible for the documents subject to claims of privilege. It is submitted that such a filing is warranted in the circumstances and will assist the Special Master in making his determination regarding the material claimed as privileged.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By: Wm. Bradford Reynolds
Wm. Bradford Reynolds
Gerald Charnoff

Counsel for Applicants

Dated: May 13, 1975.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
THE TOLEDO EDISON COMPANY and)	
THE CLEVELAND ELECTRIC ILLUMINATING)	
COMPANY)	
(Davis Besse Nuclear Power Station,)	Docket Nos. 50-346A
Unit 1))	50-440A
)	50-441A
THE CLEVELAND ELECTRIC ILLUMINATING)	
COMPANY, ET AL.,)	
(Perry Nuclear Power Plant,)	
Units 1 and 2))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Applicants' Motion For Leave To File Response To The Briefs Of The City Of Cleveland And The Department Of Justice On Claims Of Privilege" were served upon each of the persons listed on the attached Service List, by hand delivering a copy to those persons in the Washington, D. C. area and by mailing a copy, postage prepaid, to all others, all on this 13th day of May, 1975.

SHAW, PITTMAN, POTTS & TROWBRIDGE

By: Wm. Bradford Reynolds
Wm. Bradford Reynolds
Counsel for Applicants

Dated: May 13, 1975.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)

THE TOLEDO EDISON COMPANY and)
THE CLEVELAND ELECTRIC)
ILLUMINATING COMPANY)

(Davis-Besse Nuclear Power)
Station, Unit 1))

THE CLEVELAND ELECTRIC)
ILLUMINATING COMPANY, ET AL.)

(Perry Nuclear Power Plant,)
Units 1 and 2))

Docket Nos. 50-346A
50-440A
50-441A

SERVICE LIST

Douglas V. Rigler, Esq.
Chairman, Atomic Safety and
Licensing Board
Foley, Lardner, Hollabaugh
and Jacobs
Schanin Building
815 Connecticut Avenue, N.W.
Washington, D. C. 20006

John H. Brebbia, Esq.
Atomic Safety and Licensing Board
Alston, Miller & Gaines
1776 K Street, N.W.
Washington, D. C. 20006

John M. Frysiak, Esq.
Atomic Safety and Licensing
Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Mr. Chase R. Stephens
Docketing & Service Section
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D. C. 20006

Benjamin H. Vogler, Esq.
Office of General Counsel
Regulation
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Robert J. Verdisco, Esq.
Office of General Counsel
Regulation
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Roy P. Lessy, Jr., Esq.
Office of General Counsel
Regulation
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Joseph J. Saunders, Esq.
Steven M. Charno, Esq.
Antitrust Division
Department of Justice
Washington, D. C. 20530

Melvin G. Berger, Esq.
Antitrust Division
Department of Justice
Washington, D. C. 20530

Reuben Goldberg, Esq.
David C. Hjelmfelt, Esq.
1700 Pennsylvania Ave., N.W.
Washington, D. C. 20006

Frank R. Clokey, Esq.
Special Assistant
Attorney General
Room 219
Towne House Apartments
Harrisburg, Pennsylvania 17105

Mr. Raymond Kudukis
Director of Utilities
City of Cleveland
1201 Lakeside Avenue
Cleveland, Ohio 44114

Herbert R. Whiting, Director
Robert D. Hart, Esq.
Department of Law
1201 Lakeside Avenue
Cleveland, Ohio 44114

John C. Engle, President
AMP-O, Inc.
Municipal Building
20 High Street
Hamilton, Ohio 45012

Donald H. Hauser, Esq.
Corporate Solicitor
The Cleveland Electric
Illuminating Company
55 Public Square
Cleveland, Ohio 44101

Leslie Henry, Esq.
Fuller, Henry, Hodge & Snyder
300 Madison Avenue
Toledo, Ohio 43604

Thomas A. Kayuha, Esq.
Ohio Edison Company
47 North Main Street
Akron, Ohio 44308

Thomas J. Munsch, Esq.
General Attorney
Duquesne Light Company
435 Sixth Avenue
Pittsburgh, Pennsylvania 15219

David Olds, Esq.
Reed, Smith, Shaw & McClay
Union Trust Building
Box 2009
Pittsburgh, Pennsylvania 15230

John Lansdale, Esq.
Cox, Langford & Brown
21 Dupont Circle, N.W.
Washington, D. C. 20036

Wallace L. Duncan, Esq.
Jon T. Brown, Esq.
Duncan, Brown & Palmer
1700 Pennsylvania Ave., N.W.
Washington, D. C. 20006

Edward A. Matto, Esq.
Assistant Attorney General
Chief, Antitrust Section
30 East Broad Street, 15th Floor
Columbus, Ohio 43215

Richard M. Firestone, Esq.
Assistant Attorney General
Antitrust Section
30 E. Broad Street, 15th Floor
Columbus, Ohio 43215

Deborah P. Highsmith, Esq.
Assistant Attorney General
Antitrust Section
30 East Broad Street, 15th Floor
Columbus, Ohio 43215

Christopher R. Schraff, Esq.
Assistant Attorney General
Environmental Law Section
361 East Broad Street, 8th Floor
Columbus, Ohio 43215